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Of Attorneys for Defendant State Farm
Mutual Automobile Insurance Company

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

BENNETT IRBY,

Plaintiff,

vs.

Case No. 3:22-cv-00773-SI

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, a corporation,

JOINT STATUS REPORT

Defendant.

The undersigned attorneys for the parties submit the following Joint Status Report pursuant to the Court's Order on April 12, 2023 (ECF No. 8):

This case was abated on November 1, 2022 (ECF No. 7) pending the resolution of a Motion to Certify Question to Oregon Supreme Court in *Melody J. Spear v. State Farm Mut. Auto. Ins. Co.*, Case No. 6:22-cv-0113-MK because the same legal dispute at issue in this case was also at issue in *Spear* and in another case before Judge Kasubhai, *Richard Burright v. State Farm Mut. Auto. Ins. Co.*, Case No. 3:22-cv-00667-MK. On February 6, 2023, Judge Kasubhai

issued the district court's Opinion and Order in both the *Spear* and *Burright* cases. *Spear*, Case No. 6:22-cv-0113-MK (ECF No. 32) and *Burright*, Case No. 3:22-cv-00667-MK (ECF No. 25). Judge Kasubhai resolved the cross-Motions for Summary Judgment in the plaintiffs' favor in both cases, and denied the Motion to Certify Question to Oregon Supreme Court as moot. Thereafter, the parties reached an agreement on a stipulated judgment in both cases for the purpose of affixing the amount of damages so that an appealable judgment could be entered, which was filed on April 10, 2023. *Spear*, Case No. 6:22-cv-0113-MK (ECF No. 37) and *Burright*, Case No. 3:22-cv-00667-MK (ECF No. 30). The judgment has not yet been entered by the district court. Once entered, State Farm intends to file Notices of Appeal in both cases to the Ninth Circuit.

The parties believe that the most efficient use of judicial resources is to continue to hold this case in abeyance while the legal issue is resolved by the Ninth Circuit in *Spear* and in *Burright*, or the Oregon Supreme Court if the Ninth Circuit decides to certify the legal issue to the Oregon Supreme Court.

DATED this 24th day of April, 2023.

s/ Travis Eiva

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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **JOINT STATUS REPORT**
to the following:

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- ☒ by emailing a copy to said attorney at the above email address with consent of counsel;
- ☐ by mailing a copy in a sealed, first-class, postage prepaid envelope, addressed to said attorneys at the above address and deposited in the U.S. Mail;
- ☒ by serving correct copies thereof, certified by me as such, to attorneys via the United States District Court for the District of Oregon's CM/ECF filing system.

DATED this 24th day of April, 2023.

s/ Ralph C. Spooner
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